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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,997	02/28/2002	Frank-Peter Lang	2001DE408	1070
25255	7590	04/13/2004	EXAMINER	
CLARIANT CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 4000 MONROE ROAD CHARLOTTE, NC 28205			DELCOTTO, GREGORY R	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 04/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/085,997	LANG ET AL
	<b>Examiner</b>	<b>Art Unit</b>
	Gregory R. Del Cotto	1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/9/03, 5/24/02</u> . | 6) <input type="checkbox"/> Other: _____.  |

**DETAILED ACTION**

1. Claims 1-9 are pending.

If a copy of a provisional application listed on the bottom portion of the accompanying Notice of References Cited (PTO-892) form is not included with this Office action and the PTO-892 has been annotated to indicate that the copy was not readily available, it is because the copy could not be readily obtained when the Office action was mailed. Should applicant desire a copy of such a provisional application, applicant should promptly request the copy from the Office of Public Records (OPR) in accordance with 37 CFR 1.14(a)(1)(iv), paying the required fee under 37 CFR 1.19(b)(1). If a copy is ordered from OPR, the shortened statutory period for reply to this Office action will not be reset under MPEP § 710.06 unless applicant can demonstrate a substantial delay by the Office in fulfilling the order for the copy of the provisional application. Where the applicant has been notified on the PTO-892 that a copy of the provisional application is not readily available, the provision of MPEP § 707.05(a) that a copy of the cited reference will be automatically furnished without charge does not apply.

***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on applications filed in Germany on 10/13/01 and 3/3/01. It is noted, however, that applicant has not filed a certified copy of the 10110337.9 and 10150723.2 application as required by 35 U.S.C. 119(b).

***Claim Rejections - 35 USC § 102***

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

### ***Claim Rejections - 35 USC § 103***

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.

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3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/00767.

'767 teaches a laundry and laundry detergent composition which comprise a fabric enhancement system which comprises one or more polyamines and a transition metal-containing dye protection system which comprises an oligomer formed from the reaction of an imidazole and a crosslinking agent, preferably epichlorohydrin. See Abstract. Note that, epihalohydrins (epichlorohydrin) can be used directly the polyamine units to form a polymer. See page 10, lines 1-20. Additionally, the compositions may contain adjunct ingredients builders, soil release polymers, dye transfer agents, enzymes, suds suppressers, hydrolysable surfactants, chelants, etc. See page 4, lines 1-25. Suitable surfactants include anionic, cationic, nonionic, zwitterionic surfactants, etc. See page 17, lines 40-50.

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'767 does not specifically recite a detergent composition containing the specific dye-transfer-inhibiting dye fixatives in addition to the other requisite components of the composition in the specific proportions as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a detergent composition containing the specific dye-transfer-inhibiting dye fixatives in addition to the other requisite components of the composition in the specific proportions as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of '767 suggest a detergent composition containing the specific dye-transfer-inhibiting dye fixatives in addition to the other requisite components of the composition in the specific proportions as recited by the instant claims.

Claims 1, 2, 4, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber et al (US 4,634,544).

Weber et al teach improved detergent compositions for colored fabrics containing an acylcyanamide salt and a water-soluble organic polymer whose monomers have more than one amino group, and which are substantially or completely free of strong electrolytes. See Abstract. Suitable polyamines are adducts or condensates of polyfunctional aliphatic amines and compounds containing several reactive groups, for example epichlorohydrin or alkylene halides. See column 2, lines 10-30. Nonionic surfactants can be used in the composition. See column 5, lines 1-69. Additionally, the compositions may contain a builder such as citric acid. See column 7, lines 40-69.

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Bleaches may also be included in the compositions such as sodium perborate, sodium carbonate perhydrate, etc. See column 8, lines 30-69. Enzymes such as proteases, lipases, and amylases may also be used in the compositions. See column 9, lines 1-30.

Weber et al do not specifically teach a detergent composition containing the specific dye-transfer-inhibiting dye fixatives in addition to the other requisite components of the composition in the specific proportions as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a detergent composition containing the specific dye-transfer-inhibiting dye fixatives in addition to the other requisite components of the composition in the specific proportions as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of Weber et al suggest a detergent composition containing the specific dye-transfer-inhibiting dye fixatives in addition to the other requisite components of the composition in the specific proportions as recited by the instant claims.

Claims 1-5 and 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Panandiker et al (US 6,596,678).

Panandiker et al teach detergent compositions containing a detergents surfactant system, a polyelectrolyte complex of cationic and anionic polymers, an inorganic peroxygen bleaching compound and a bleach activator. The complex is prepared by reacting at least one amine and a crosslinking agent selected from epihalohydrins, and anionic compounds containing at least three anionic groups. See column 9, lines 25-45.

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Additionally, the detergent compositions may contain from 1% to 80% by weight of a detergents surfactant such as anionic, nonionic, zwitterionic, ampholytic or cationic.

Builders may also be used in the compositions. Additionally, optional ingredients such as enzymes, anticorrosion agents, bleaching agents, soil suspending agents, soil release agents, solvents, etc. may be added to the compositions. See column 11, line 1 to column 12, line 45. Suitable enzymes include proteases, amylases, lipases, etc.

Panandiker et al do not specifically recite a detergent composition containing the specific dye-transfer-inhibiting dye fixatives in addition to the other requisite components of the composition in the specific proportions as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a detergent composition containing the specific dye-transfer-inhibiting dye fixatives in addition to the other requisite components of the composition in the specific proportions as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of Panandiker suggest a detergent composition containing the specific dye-transfer-inhibiting dye fixatives in addition to the other requisite components of the composition in the specific proportions as recited by the instant claims.

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Moorfield et al (US 2004/0023836).

Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Moorfield et al teach polymers which are capable of self-cross linking and/or reacting with cellulose which can be used in the treatment of fabric comprising cellulosic fibers to enhance the feeling of comfort when a garment comprising the fabric is worn. See Abstract. Suitable cationic polymers include amine –epichlorohydrin resins and polyamine-epichlorohydrin resins. See page 2, lines 40-69. If the process is carried out using the polymer in the form of a detergent composition, the composition may include anionic, cationic, nonionic, amphoteric, and zwitterionic surfactants. Additionally, the compositions may contain a builder. See page 4, lines 40-69. Other optional ingredients include dye transfer inhibitors, enzymes, antiredereposition agents, etc. See page 6, lines 1-20.

Specifically, Moorfield et al teach the use of a polymer which is the reaction product of a prepolymer comprising amino functional groups with epichlorohydrin. See claim 2. Accordingly, the broad teaching of Moorfield et al anticipates the material limitations of the instant claims.

Claims 2-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moorfield et al (US 2004/0023836).

Moorfield et al are relied upon as set forth above. However, Moorfield et al do not specifically teach a detergent composition containing the specific dye-transfer-inhibiting

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dye fixatives in addition to the other requisite components of the composition in the specific proportions as recited by the instant claims.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a detergent composition containing the specific dye-transfer-inhibiting dye fixatives in addition to the other requisite components of the composition in the specific proportions as recited by the instant claims, with a reasonable expectation of success and similar results with respect to other disclosed components, because the broad teachings of Moorfield et al suggest a detergent composition containing the specific dye-transfer-inhibiting dye fixatives in addition to the other requisite components of the composition in the specific proportions as recited by the instant claims.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/00767 or Moorfield et al (US2004/0023836 as applied to the rejected claims above, and further in view of Panandiker et al (US 6,596,678).

'767 or Moorfield et al are relied upon as set forth above. However, neither reference teaches the use of cellulase enzymes or bleaches in addition to the other requisite components of the composition as recited by the instant claims.

Panandiker et al are relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a cellulase enzyme in the compositions taught by '767 or Moorfield et al, with a reasonable expectation of success, because Panandiker et al

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teach the use of cellulase enzymes in a similar detergent composition and further, '767 or Moorfield et al teach the use of enzymes in general.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a bleaching agent in the compositions taught by '767 or Moorfield et al, with a reasonable expectation of success, because Panandiker et al teach the use of bleaching agents in a similar detergent composition and, further, '767 or Moorfield et al teach the inclusion of various optional ingredients which would encompass bleaching agents.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Panandiker et al (US 6,596,678) as applied to claims 1-5 and 7-9 above, and further in view of WO 01/00767.

Panandiker et al are relied upon as set forth above. However, Panandiker et al do not teach the use of a dye transfer inhibitor in addition to the other requisite components of the composition as recited by the instant claims.

'767 is relied upon as set forth above.

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to use a dye transfer inhibitor in the cleaning composition taught by Panandiker et al, with a reasonable expectation of success, because '767 teaches the use of dye transfer inhibitors in a similar detergent composition and, further, Panandiker et al teach the inclusion of optional ingredients which would encompass dye transfer inhibitors.

***Double Patenting***

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-9 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of copending Application No. 10/085712. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1-7 of 10/085712 encompass the material limitations of the instant claims. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to formulate a composition containing the specific dye-transfer-inhibiting dye fixatives in addition to the other requisite components of the composition in the specific proportions as recited by the instant claims of 10/085997, with a reasonable expectation of success, because claims 1-7 of 10/085712 suggest formulate a composition containing the specific dye-transfer-inhibiting dye fixatives in addition to the other requisite components of the composition in the specific proportions as recited by the instant claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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***Conclusion***

2. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Remaining references cited but not relied upon are considered to be cumulative to or less pertinent than those relied upon or discussed above.

Applicant is reminded that any evidence to be presented in accordance with 37 CFR 1.131 or 1.132 should be submitted before final rejection in order to be considered timely.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (571) 272-1312. The examiner can normally be reached on Mon. thru Fri. from 8:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Gregory R. Del Cotto

Primary Examiner

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GRD

April 4, 2004